

Remarks

Claims of the application are amended in minor respects to address informalities in the claims without changing the scope thereof. Specifically, claims 1, 16, and 44 are amended to remove the term “at least.” In that the open-ended “at least” term appears to be a possible redundancy of the open-ended “includes” term in each of the above claims, applicants believe that clarity of claims 1, 16, and 44 would be enhanced by removal of the “at least” term without giving rise to a change in the claim scope.

In a telephone interview of October 24, 2005 between Examiner Thien Le and the applicants’ representative George S. Blasiak, the Examiner and applicants’ representative discussed the proposed Amendment After Allowance to remove the “at least” term from claims 1, 16, and 44. The Examiner stated that the Examiner agreed that the removal of the “at least” term would remove what appears to be a possible redundancy in claims 1, 16, and 44 and the Examiner would enter the Amendment on the submittal of an Amendment After Allowance under 37 C.F.R. §1.312.

Further, applicants note that in prosecution relative to the “portion” limitations added by amendment to claims 1, 16, and 44, applicants stated that the “portion” limitations were added to include the subject matter of allowable original claim 17 which reads: “The optical reader of claim 16, wherein the step of executing the externally generated program includes replacing a portion of the optical reader program.” (*see Applicants’ Response of March 24, 2003*). While the Examiner, by allowing claims 1, 16, and 44 has indicated that the Examiner concurs that the “includes replacing at least a portion of the” recitals of claims 1, 16, and 44 correspond to the indicated-allowable subject matter recited in original claim 17, applicants note that it can be argued that claims 1, 16, and 44 should be interpreted in a manner consistent with applicants’ remark that claims 1, 16 and 44 include the indicated allowable subject matter of claim 17. Accordingly, the proposed amendments to claim 1, 16, 44 do not alter the scope of those claims for the further reason (in addition to the reason mentioned above regarding the “at least” term presenting what appears to be a redundancy) that the

claims as amended herein are consistent with their scope as would be accorded where interpreted based on the referenced statements made by the applicants during prosecution.

In addition to the above, claim 34 is amended to correct an antecedent basis inconsistency. Specifically, claim 34 is amended to recite “software program” as recited previously in that claim. Claim 61 is also amended to address an antecedent basis inconsistency. Specifically, claim 61 is amended to recite “programming” bar code symbol rather than “program” bar code symbol so that claim 61 is consistent with the antecedent basis provided in claim 61. Further, claim 17 is cancelled, as claim 17 includes *verbatim* the recitations of the base claim after amendment.

Finally, the Abstract of the application is amended so that the Abstract is more consistent with the subject matter recited in the claims. The Field of Invention is also amended so that the Field of Invention is more consistent with the subject matter of the claims. None of the amendments presented herein contain new matter. While limitations are not to be imported from a patent specification into the claims, the specification amendments are made to further emphasize that the scope of the invention should be determined with reference to the claims (see *e.g.*, p. 87).

In a telephone interview of October 24, 2005 between Examiner Thien Le and the applicants’ representative George S. Blasiak, the Examiner and applicants’ representative discussed entry of an Abstract that was more consistent with the subject matter recited in the claims. The Examiner stated that the Examiner regarded an amendment to the Abstract to be an amendment directed to informalities and indicated that an amendment to the Abstract would be entered on the submittal of an Amendment After Allowance under 37 C.F.R. §1.312. The amendment to the Field of Invention was not discussed.

Because it is believed that no amendment presented herein affects the disclosure (unless the Amendment to the Abstract and Field of Invention devoid of new matter is regarded as a change in the disclosure) or affects the scope of any claim or adds a claim, it is

believed that no four part statement under *MPEP* §714.16 is required. If a statement under *MPEP* §714.16 is deemed to be required, applicants state that the amendments presented herein are needed for addressing minor informalities, and that the amendments were not presented earlier since the review resulting in their desirability was not conducted until just before the due date of the issue fee. Applicants also state that the amendments do not change the scope of the claims. As such, the amendments could not affect the Patent Office's position that the claims are allowable. Also, since the proposed amendments do not change the scope of the claims, they should require no additional search or examination.

Regarding the patent term adjustment, applicants' representative has reviewed the patent term adjustment with Brian E. Hanlon of the U. S. Patent and Trademark's Office of Patent Legal Administration and the patent term adjustment appears to be correct to the time of the Notice of Allowance. However, it is believed that the submission of the Information Disclosure Statements of October 7, 2005 and October 24, 2005 and the present Amendment under 37 C.F.R. §1.312 will incur a reduction in the term by a number of days determined by the amount of time required to process the Amendment, not to exceed four months. 37 C.F.R. §1.704(c)(10)(i).

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to deposit Account No. 50-0289.

Respectfully submitted,

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